

JCJ

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY

12-CR-81-1

United States District Court		District	EASTERN DISTRICT OF PENNSYLVANIA
Name (under which you were convicted): <u>ARLANDO PICKETT</u>		Docket or Case No.: <u>14 0108-CV</u>	
Place of Confinement:		Prisoner No.:	
UNITED STATES OF AMERICA		Movant (include name under which convicted) V.	

MOTION

- (a) Name and location of court which entered the judgment of conviction you are challenging: EASTERN DISTRICT OF PENNSYLVANIA
- (b) Criminal docket or case number (if you know): 12-81-1
- (a) Date of the judgment of conviction (if you know): November 20, 2012
- (b) Date of sentencing: February 21, 2013
- Length of sentence: 135 months
- Nature of crime (all counts): Distribution of 28-grams or more of Cocaine base (crack), in violation of 21-U.S.C. 841 (A)(1), (b)(1)(B)
- (a) What was your plea? (Check one)

(1) Not guilty ☐ (2) Guilty ☒ (3) Nolo contendere (no contest) ☐

(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or what did you plead guilty to and what did you plead not guilty to?
- If you went to trial, what kind of trial did you have? (Check one) Jury ☐ Judge only ☐

7. Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes ☐ No ☒

8. Did you appeal from the judgment of conviction? Yes ☐ No ☒

9. If you did appeal, answer the following:

(a) Name of court: _____

(b) Docket or case number (if you know): _____

(c) Result: _____

(d) Date of result (if you know): _____

(e) Citation to the case (if you know): _____

(f) Grounds raised: N/A

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☐ No ☒

If "Yes," answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

(5) Grounds raised: N/A

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court?

Yes ☒ No ☐

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: I Submitted a Notice of appeal to the Honorable J. Curtis

(2) Docket or case number (if you know): Jayner in Courtroom (17A- 17th Floor).

- (3) Date of filing (if you know): February 27, 2013
- (4) Nature of the proceeding: I was sent a 2255 Motion
- (5) Grounds raised: Ineffective Assistance of Counsel. Favorable evidence being withheld, two point enhancement

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐

No ☒

(7) Result: I was sent a 2255 Motion

(8) Date of result (if you know): _____

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: _____

(2) Docket of case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐

No ☒

(7) Result: _____

(8) Date of result (if you know): _____

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes ☐

No ☒

(2) Second petition: Yes ☐

No ☒

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: TFO Charles Myers, III withheld favorable Evidence

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

At approximately 5:44 p.m., On approximately 09, 2011 TFO Charles Myers, III Conducted a recorded telephone Conversation with petitioner and Charles Myers, informant. During the above telephone Conversation petitioner informed the informant that he would get 67 grams of Cocaine For him. During phone call informant ask if petitioner could turn the cocaine into Cocaine Base which resulted in petitioner declining to do so several times. Petitioner told informant numerous times he could not do what he was asking which resulted in additional phone call with informant explaining why he was asking which is also the beginning of the recordings provided by TFO Charles Myers, III. I strongly believe By withholding phone conversation with Federal Source which discovery clearly states source contacted defendant to purchase Cocaine. Defendant his right to be

(b) **Direct Appeal of Ground One:** Sentence for what he was perdisposed to, sell for cocaine

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐

No ☒

(2) If you did not raise this issue in your direct appeal, explain why: I Ask lawyer to do so

Because I did not, with my fear that the lawyer would not do it I wrote to the Court's explaining my dilemma And was sent this form.

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐

No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐

No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND TWO: Two point enhancement was inaccurately argued and applied
two sentence

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Discovery clearly notes the day petitioner was arrested was a month and a half
to the day petitioner was said to have stopped at house. Codefendant was arrested at.
Also before the day between petitioner and informant petitioner was seen stopping
at another house on 13th and Hulton St. Just before officer's last sight of petitioner
until petitioner made contact with C.I., Petitioner was also never said to be seen
entering or exiting the property on opal St. On the day he was said to have
stopped there or any day after. This shows that a two point enhancement was
inaccurately applied, with petitioner never being said to have entered or exit
the house on opal and the stopping of petitioner at additional house before
the purchase also the time between petitioner's arrest and the day petitioner
allegedly stopped at the house on opal St

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☐

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND THREE: Ineffective assistance of Counsel

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Counsel was notified of everything that's being brought to the court's attention at this time. Counsel persuade me to believe that the issue with the phone recording was a issue to bring up at sentencing And that he would fight for predisposition and sentencing factor manipulation and also my two point enhancement with what I brought to his attention that Discovery stated. I believe counsel was ineffective Because he persuaded me that he would do one thing and did another

(b) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why:

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☐

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

Name and location of the court where the appeal was filed:

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is “No,” explain why you did not appeal or raise this issue:

GROUND FOUR:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why:

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☐

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐

No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐

No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐

No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes ☐ No ☐

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. _____

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At the preliminary hearing: _____

(b) At the arraignment and plea: _____

(c) At the trial: _____

(d) At sentencing: _____

(e) On appeal: _____

(f) In any post-conviction proceeding: _____

(g) On appeal from any ruling against you in a post-conviction proceeding: _____

16. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☐

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: _____

(b) Give the date the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

Therefore, movant asks that the Court grant the following relief: OF additional time for two point
enhancement and what petitioner was predisposed to

or any other relief to which movant may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on 1/6/14
(month, date, year)

Executed (signed) on Alando Pickett 1/6/14 (date)

Alando Pickett
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.

